UNITED NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/SR.1507
2 August 1996

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Fifty-seventh session

SUMMARY RECORD OF THE 1507th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 10 July 1996, at 3 p.m.

Chairman: Mr. BHAGWATI

later: Mr. AGUILAR URBINA

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of Brazil (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-17246 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Brazil (continued) (CCPR/C/81/Add.6; HRI/CORE/1/Add.53; CCPR/C/Q/BRA/3)

1. The CHAIRMAN invited the members of the Committee who had not yet done so to ask questions relating to Section I of the list of issues (CCPR/C/Q/BRA/3).

2. Mr. PRADO VALLEJO said that he was particularly happy to welcome the Brazilian delegation since it represented a State with which his own country, Ecuador, had numerous common interests. Brazil had, moreover, played a noteworthy role in promoting peace in Latin America. The report (CCPR/C/81/Add.6) was characterized by an evident willingness not to conceal the problems that the country was facing. With the delegation's oral presentation, the Committee had a good idea of the true state of affairs and would therefore be ideally placed to play its advisory role in the quest for the most appropriate ways to improve the human rights situation.

3. The first question that arose was the status of the Covenant in domestic law, since the State party's report did not indicate whether the Covenant could be invoked directly before a court, nor which rule would prevail in the event of a conflict between one of its provisions and a provision of the legislation of the Brazilian States.

4. Noting from paragraph 5 of the report that "Investigating and punishing violations of human rights is the preserve of State administrations", he asked about the powers of the Federal Government in the event of abuses, a concern that was heightened by the statement in paragraph 6 to the effect that "The Federal Government's ability to take action regarding violations is often diminished". If that shortcoming was as real as the report suggested, the situation would give cause for concern. Although the problem of disappearances and extrajudicial executions was grave in all countries, the situation in Brazil was very special in that members of the police forces were involved in most cases. The State should take measures to put an end to such phenomena since, according to Amnesty International (report for 1996), hundreds of persons had been the victims of extrajudicial executions by the police and the death squads, new disappearances had been reported, detainees had allegedly been tortured or ill-treated in the prisons and police stations, and human rights activists and prosecutors investigating violations of fundamental rights had received death threats. It was therefore essential that measures should be taken, particularly to combat impunity, since the police officers responsible for those abuses usually went unpunished. However, the Government seemed to be determined to take action and had already decided to compensate the victims or the relatives of victims of abuses committed under the military Government, which was a very encouraging sign.

5. The situation described in paragraph 90 of the report was bound to give cause for concern, and if it was true that "This rise in crime has had a serious effect on the law enforcement offices. The more overworked they have

become, the more their ability to prevent and fight crime has diminished", the Government should train police officers in such a way as to ensure that violence did not triumph over law enforcement. Unfortunately, there was no country in which police officers did not resort to violence at some time or another in order to obtain confessions and evidence. However, in Brazil, that type of situation was not investigated and the persons responsible therefore enjoyed impunity. He trusted that matters would improve once the country had adopted legislation against torture, on the subject of which a bill of law was being considered by the Parliament.

6. Mr. MAVROMMATIS expressed satisfaction with the periodic report, whose unique structure served clearly to highlight all the difficulties encountered in implementing the Covenant, thereby facilitating the Committee's task in addition to showing the State's determination to fulfil its obligations. Like other members of the Committee, he wondered about the transfer to federal courts of jurisdiction in regard to offences related to human rights and would like to receive clarifications on that subject. If that "federalization" made it possible to eliminate the current disparities in the manner in which the federal Government and the authorities of the States operated in regard to investigation, prosecution and judgement procedures, it would certainly be welcome, although many difficulties would be encountered. For the moment, the Committee would have a clearer idea if it knew which offences fell under federal jurisdiction and which fell solely under the jurisdiction of the State directly concerned. He was taken aback by the statement (para. 155 of the report) that the issuance of release orders had been delayed due to the congestion of the judicial system, as a result of which many detainees had remained in jail even after serving out their sentences. The document needed for the release of a detainee should be drawn up by the administration, without the judicial system having to intervene.

7. The question of the independence of the judiciary was not dealt with in the report. Even if the Committee was willing to assume that that independence was guaranteed, it would still be useful to have details concerning the classic methods of ensuring respect for that guarantee, particularly in regard to the appointment of magistrates. It might be wondered, for example, whether the appointment criteria were the same at the federal and State levels, whether the members of the judiciary enjoyed immunity from prosecution and whether the president of a tribunal acted alone or after seeking the opinion of his advisers.

8. The Brazilian State showed a definite desire to improve the situation of indigenous people and had expressed its concern to safeguard their identity. However, it might be wondered how the Government intended to ensure a steady integration that would preserve the culture of indigenous people.

9. Finally, he looked forward to Brazil's ratification of the Optional Protocol to the Covenant, which would supplement the various provisions protecting the rights of that country's nationals.

10. Mr. ANDO expressed satisfaction with the report and with the Brazilian delegation's oral introduction. Like the other members of the Committee, he had difficulty in understanding the legislative hierarchy in the Brazilian

federal system. In particular, he wished to know what would happen if the legislation of a particular State conflicted with the federal legislation and also with an international treaty.

11. The situation and status of minorities also needed to be clarified. In particular, it should be ascertained whether the wishes of indigenous people were taken into consideration and what were the general principles of the State's policy towards them.

12. Lord COLVILLE endorsed the comments of the members of the Committee who had emphasized Brazil's status in the international community and commended its report. Given the frank manner in which problems were noted in the report, the Committee should respond in such a way as to help to improve the situation. Firstly, the measures taken to find missing persons and identify those responsible for their abduction, as mentioned in paragraph 84 of the report, should be welcomed. However, it might be wondered whether those measures had been favourably received by the population in view of the fact that the 1979 Amnesty Law had benefited not only thousands of political exiles but also persons responsible for human rights violations.

13. No country could boast of being free from police brutality, and the appointment of a police ombudsman was a commendable step, on the application of which it would be helpful to have further details.

14. Paragraphs 209-215 of the report gave a full account of the difficulties encountered in the administration of justice and in the penitentiary system due to inadequate resources. There again, Brazil was far from being an isolated case; however, ways should be sought to fully restore the population's confidence in the administration of justice. Measures could be taken to avoid congestion in the courts. For example, steps should be taken to facilitate the presentation of the cases for the prosecution and the defence as soon as possible and consideration should be given to transferring responsibility for trying a certain number of offences to lower courts so that they could be judged fairly and more expeditiously. The National Human Rights Programme for 1996, which had been submitted to the members of the Committee, contained some very useful measures, particularly in regard to alternative procedures and penalties. The Brazilian Government would probably have difficulty in convincing the population, the legislature and the judiciary that a non-custodial penalty was as effective as incarceration. However, there were ways to restrict the liberty of persons convicted of some offences (community work, suspended sentence, parole, compulsory programmes to overcome addiction to drugs or alcohol) which, in addition, produced much better rehabilitation results than did imprisonment. Although there was a need to train judges and social workers, that was a highly worthwhile investment. Those were some of the measures that could be recommended for consideration by the Brazilian Government, which had demonstrated its desire to improve the situation.

15. Mr. BÁN commended the quality of the report presented by the Brazilian Government, as well as the desire that the latter had shown to fulfil its contractual obligations under the Covenant. He believed that the difficulties that the State party had nevertheless encountered in that field were mainly

attributable to the federal structure that it had adopted. In that regard, he too hoped to receive further clarifications concerning the distribution of powers between the central Government and the Governments of the various States, particularly in regard to cooperation between the federal police and the State police, as well as the distribution of judicial authority. Since the main issue was federalism, the delegation might wish to inform the Committee whether the Brazilian authorities were planning any amendments to the national Constitution in that respect.

16. Ms. MEDINA QUIROGA wondered whether the application of articles 105 and 109 of the Brazilian Constitution, which apparently empowered the Supreme Court to take a final decision on all judgements handed down by other judicial bodies, might be detrimental to respect for human rights. She also wondered why almost 90 per cent of the persons put on trial did not have access to the services of a lawyer and inquired whether measures were being considered to remedy that shortcoming. Moreover, if a national judicial council were established, as the Brazilian delegation had announced, what effect would that measure have on the organization of the judiciary? Furthermore, what was the situation regarding the application of the law adopted in 1992 under which members of the police forces who had allegedly committed human rights violations were to be brought before the ordinary courts?

17. With regard to the question of torture, she requested clarifications concerning the statement in paragraph 118 of the report that "a law has been created authorizing police authorities to detain suspects on a temporary basis ...". She wondered whether that provision was likely to encourage, rather than prevent, acts of torture. She also wondered under what conditions incommunicado detention could be imposed and under the control of which authority, since there was naturally a risk of cruel, inhuman or degrading treatment in such cases.

18. With regard to the situation of children in Brazil, she noted that, in its report, the Government dealt with child prostitution and forced labour imposed on minors in two separate sections. Yet those were two aspects of the same phenomenon of economic exploitation. She also wished to know whether the Penal Code punished any type of sexual relations with a girl under 12 years of age, even with her consent. Finally, she wished to have further details concerning the extent of the phenomenon of racial discrimination in Brazil and, with regard to equality between the sexes, requested clarifications concerning the statement in paragraph 39 of the report that the legislative provisions of the Civil Code had "lost their effectiveness in the juridical sphere".

19. Mr. POCAR said he was particularly interested in the situation of indigenous people in Brazil and wished to know what measures had been taken to ensure respect for the provisions of article 27 of the Covenant in that regard. He inquired whether the indigenous communities had participated in the drafting of the decree of January 1996 amending the procedures applicable to the demarcation of land and, in general, wished to know to what extent and in what way those communities were consulted on matters relating to the promotion and protection of their rights. In addition, he understood that the

Constitution authorized the Government to move some indigenous populations from their lands whenever such was required for security reasons and he wished to know whether any action had been taken on the proposal of the representatives of indigenous populations to amend that provision. Finally, with reference to paragraph 46 of the core document (HRI/CORE/1/Add.53), he inquired whether, in addition to the Public Prosecution Service, the indigenous communities themselves and the organizations which represented them were entitled to defend their rights and interests directly before the Federal Court.

20. Mr. Aguilar Urbina took the Chair.

21. Mr. BUERGENTHAL wondered why the military police in Brazil were apparently still concerned with offences committed by civilians. He wished to know what control the civilian authorities exercised over the activities of the military police and what role was played in that field by judges, prosecutors and human rights commissioners. Moreover, did the States have the same degree of jurisdiction as the Federal Government in regard to human rights?

22. On the subject of violence against children, he noted that some of the States had adopted useful measures while, in other States, nothing had been done to combat that phenomenon. Consequently, he inquired whether the federal authorities, such as the Ministry of Justice or the Ministry of the Interior, were taking measures to deal with that nationwide problem and, if so, what financial and human resources had been allocated for that purpose. He also wished to know whether the Federal Government was helping the governments of the States to deal with the problem of children detained by the police.

23. With reference to paragraph 125 of the report, he inquired whether all the detention centres of the States and the Federal District really did give all prisoners a medical examination. Finally, noting that Brazil had ratified the Convention against Torture in 1989 (para. 115 of the report), he asked what was the status of the Convention in the domestic legal system and whether it could be invoked directly before the courts.

24. Mr. EL SHAFEI noted that the Brazilian Government itself recognized in its report that the country had a long history of grave violations of human rights. In that connection, the numerous measures that had recently been taken to remedy that state of affairs should be welcomed. In that regard, the delegation had indicated that the federal police were now empowered to conduct inquiries on matters that were simultaneously being investigated by the States. He wished to know how those inquiries were actually carried out and whether, for example, the federal police had access to all the evidence needed for their inquiries.

25. In his view, the main issue was the extent of the responsibilities of the Federal Government and the relations between the Federation and its component States. The Constitution that Brazil had adopted in 1988 was unique of its kind in that article 4 thereof designated the prevalence of human rights as one of the principles governing Brazil's international relations (CCPR/C/81/Add.6, p. 3). However, the Constitution also prohibited Federal

Government intervention in the States, except in those circumstances stipulated therein, including non-observance on the part of States of the constitutional principle of human rights (art. 34, see CCPR/C/81/Add.6, para. 20).

26. In that context, he wished to know the status of the international instruments, covenants and conventions that Brazil had ratified: did they form part of federal law and had they been incorporated in the internal law of the States? If the human rights instruments were regarded as forming part of federal law, the Federal Government was fully entitled to intervene in the States, as had actually happened. The question of relations between the Federal Government and the various component States was particularly important since Brazil had announced a series of reforms at the federal level. Would those reforms be put into effect at the level of the States? From the standpoint of the Covenant, it was not sufficient for the federal legislature to adopt legislation at the federal level; measures also needed to be taken to ensure its application at the level of the States. The same applied to the implementation of the plan of action that the Brazilian Government had announced in the field of human rights. Since Brazil had laid down the principle of the prevalence of human rights in international relations, it was inconceivable that the federal authorities could evade their obligations in that area by regarding the violations committed - albeit mostly in the past - as a domestic problem of the States of the Federation.

27. Mr. BHAGWATI also emphasized the merits of the initial report of Brazil, which had made no attempt to conceal the problems relating to violations of human rights and had submitted a document that was remarkably frank and comprehensive. In his excellent oral presentation, Mr. Vergne Saboia had announced several programmes and projects which the Brazilian Government intended to implement in order to ensure greater respect for human rights, and it was to be hoped that they would be put into effect as soon as possible.

28. His first question concerned a practice, which had been declared abolished by Law No. 9029 of 13 April 1995, under which, before engaging a woman, employers demanded a medical certificate confirming that she had been sterilized. Was that law being applied in practice and was there a labour inspectorate to ensure that employers no longer required such a certificate? Could Brazil indicate whether the abolition of that practice had led to a decrease in the number of women employed in the private sector?

29. Secondly, although the independence of the judiciary was recognized in the Constitution, it seemed that, in many cases, perpetrators of human rights violations could not be brought to justice because most of the offences committed by members of the military police were tried by military courts. He could not understand the reason for that, since the violations committed by the police officers in question concerned the rights of civilians. Moreover, quite apart from the fact that the military courts rarely convicted police officers, they suffered from lengthy delays in the examination of cases due to understaffing.

30. The Brazilian delegation had indicated that, in 1995, a bill of law had been approved by the Chamber of Deputies under which the civil courts would

be competent to try offences committed by police officers against civilians. Unfortunately, in the Senate, that bill seemed to have encountered opposition from the ruling party. He hoped that the Government would defend that text before the Senate.

31. Brazil admitted that, due to lack of funds, the ordinary courts also suffered from lengthy delays in the examination of cases and understaffing often led to cases being discontinued (CCPR/C/81/Add.6, para. 209). Furthermore, particularly in rural areas, magistrates, judges or prosecutors were subjected to pressure by the large local landowners, especially in cases relating to the rights of indigenous people or trade-union activists. Non-governmental organizations had reported death threats against magistrates and lawyers. The Brazilian authorities should study and endeavour to remedy that problem and should also be concerned by the inadequate number of judges in some regions. The latter should be trained before assuming their duties and should subsequently receive ongoing training, particularly in the field of human rights, in order to be able to incorporate international standards relating to fundamental rights in their judicial practice.

32. With regard to the indigenous communities (paras. 327 et seq. of document CCPR/C/81/Add.6), the report indicated that the task of demarcating their lands, which was to have been concluded in October 1993, had only been half completed. However, it was well known that land had a direct bearing on the survival of those communities and, as long as their territory had not been demarcated, they remained very vulnerable to intrusions by prospectors, lumberjacks and other marauders. The problem seemed to have been aggravated by Decree No. 1775 of January 1996 amending the procedures for the demarcation of indigenous lands which had the effect of casting doubt on the demarcation of 344 territories that had already been completed. He hoped that the Government would take measures to complete the task of demarcating the lands of the indigenous communities.

33. Mr. FRANCIS endorsed the comments made by previous speakers concerning the quality of the initial report of Brazil and the manner in which it had been presented during the meeting. Brazil was incontestably fulfilling its obligations under the Covenant in regard to the legal framework and the administrative and parliamentary structure of the country. The question that was really causing the Committee concern was that of the intensity and frequency of the acts of violence committed by the security forces, as could be seen from section I of the list of issues to be taken up in connection with the initial report of Brazil (CCPR/C/Q/BRA/3). In that connection, he wished to know what the Brazilian authorities intended to do, now that they had realized the full scale of the problem of the atrocities committed by the security forces, to ensure the professional retraining of security personnel so that they could learn to use their weapons in a different way.

34. Another very important issue was that of the rehabilitation of prisoners with a view to their social reintegration. In view of its already overcrowded prisons and the likelihood of a further increase in the prison population, Brazil was faced with a situation in which, as a result of the lack of space in the prisons, hundreds of thousands of arrest warrants remained a dead letter. He suggested that Brazil should follow the example set by the

United Kingdom and consider putting convicts to work so that the prisons could cover their own costs through their own production. Prisoners would be remunerated and those who needed to do so could follow vocational training programmes and acquire qualifications. He hoped that progress in that direction would be noted in Brazil's next report.

35. The CHAIRMAN invited the Brazilian delegation to reply to the additional questions that had been put by members of the Committee.

36. Mr. VERGNE SABOIA (Brazil) thought that, before replying to the questions raised by the members of the Committee, it would be appropriate to view Brazil's situation and current difficulties in the context of its recent and less recent history. Brazil was a vast country with a large population which, for a number of years, had been ruled by an authoritarian regime to which, however, the shortcomings that were currently observed could not be imputed since it had inherited the legacy of several centuries of colonial rule and slavery. The colonial era had been followed by a period which, even after independence and the proclamation of the Republic of Brazil, had been characterized by an economic and social system that was far from offering equality of opportunity to all, even though the country had been endowed with a legal and political system based on equality and participation. Under the military regime, Brazil had embarked on a process of modernization but had made the mistake of promoting that modernization without establishing a system based on the rule of law and democratic institutions in such as a way as to ensure that change took place in the context of respect for legality and liberty. The process of change and democratization had been completed in 1985 and finalized in 1988 with the adoption of a Constitution which could be described as highly progressive, particularly in the field of human rights.

37. However, it would be naive to believe that such an achievement would lead very rapidly to the establishment of democratic institutions at all levels or, at least, to a wholly participating democracy. Progress was being made gradually - even slowly, as Brazil itself admitted - and the difficulties had been aggravated by various problems that were either inherent in the existing system or linked to an international situation that had forced Brazil to restructure its economy, quite apart from the political problems that had led to the removal from office, due to irregularities committed in the exercise of his functions, of a President who had been appointed after free elections. That period had also been characterized by high inflation, which had posed a threat to the country's institutions and greatly reduced the value of workers' wages. Brazil currently had a President who was deeply committed to the cause of human rights.

38. He emphasized that the country had been able to tackle all the problems he had mentioned without major disturbances, without the need to proclaim a state of emergency, and without street riots. Although demonstrations had indeed taken place, they had been peaceful. That should be borne in mind, since it had been said that violence seemed to be deeply rooted in Brazilian society. In his view, although violence existed in Brazil, it did not form part of Brazilian culture. In Brazil, there was no violence associated with

religion or even directly linked to the many problems with which the country was faced. Violence was linked to land disputes and to the attempts of some groups to cling to the past in order to resist the forces of democracy and the emergence of the rule of law.

39. The first question to which he would endeavour to reply concerned federalism. Brazil was a federation and its system resembled that of the United States in many respects. That was probably the form of State organization that the country needed in view of its size, its diversity and the regional differences by which it was characterized. However, it was also true that the system posed the problem of how the Federal Government could ensure that the rules which it established were applied in the Federation's component States. There was also the problem of the time needed for the Federation's component States to adapt to that new political environment in which increasing importance was attached to endeavours to ensure respect for legality and rights. The Government certainly could not rely on its own efforts or even on the sole force of the Constitution or the law. It must be able to win popular support. The organs of civil society were called upon to play, and were already playing, an important role in inducing the local authorities and those of the Federation's component States to act in conformity with their obligations in the field of human rights.

40. With regard to the measures taken by the federal authorities to promote closer cooperation between the different States in the protection of human rights, he pointed out that the role of the Council for the Defence of Human Rights had been strengthened; councils had been established in all the States which felt the need for them, and, in general, the Ministry of Justice had established bodies to assist the federal authorities in their endeavours to promote human rights.

41. In reply to a question concerning the Federal Attorney General, he said that the latter's independence was guaranteed. The Attorney General played a leading role in the defence of human rights in Brazil and could institute proceedings at the level of the States. With regard to the processing of complaints concerning violations of human rights, a proposed amendment to the Constitution had been tabled under which the Federal Attorney General or the Council for the Defence of Human Rights would be able to institute criminal or civil proceedings before the federal judicial authorities in the event of serious offences or of procedural delays in the State concerned. However, the transfer of competence from the authorities of a State to those of the Federation would be effected on a case-by-case basis. That amendment to the Constitution could facilitate the struggle against the enjoyment of impunity by perpetrators of human rights violations.

42. In reply to the numerous questions that had been raised concerning the military police and the bill of law under which offences committed by its agents would be brought before civil courts, he pointed out that the military police was a public security institution that did not report to the federal authorities. It took its orders from the heads of security and governors of the States and, consequently, was subordinate to a civil authority. It should be borne in mind that the inspection system that had been adopted in some States had not become general practice elsewhere. With regard to the bill of

law under which the civil courts would be competent to try offences committed by agents of the military police, it should be noted that the Chamber of Deputies had approved that bill and referred it to the Senate, which had amended it in a restrictive manner. The text would now be sent back to the Chamber of Deputies for re-examination and the federal authorities hoped that the text that would be adopted would reflect the spirit of the initial bill.

43. With regard to violence against women and the concept of "legitimate defence of honour", he indicated that the Supreme Court had adopted a practice under which that concept could not be invoked before the courts. Although that practice was not binding on the lower courts, public opinion was becoming increasingly favourable to its implications. There had been several cases in which persons who had been initially acquitted on the ground of "legitimate defence of honour" had subsequently been retried and convicted.

44. With regard to acts of violence committed against indigenous people, he indicated that there had been an improvement in the situation described in his country's report (CCPR/C/81/Add.6). He then referred to an incident of a rather special nature that had occurred in the State of Pará: some Indians had been taken prisoner in a remote region of the country by people occupying land which did not belong to the indigenous population. The Indians had committed acts of violence against those persons, burnt their houses and killed cattle. As an act of protest, the victims of those incidents had taken 89 Indians prisoner. Concerted efforts on the part of the Minister of Justice, FUNAI and the federal police had led to a peaceful settlement and the Indians had been released.

45. In reply to a question concerning the demarcation of the territories of indigenous peoples, he indicated that the purpose of Decree No. 1775 of 1996, to which the Committee had referred, was to consolidate the demarcation process and reduce the number of disputes brought before the Supreme Court. That aim had been achieved and the demarcation process was continuing. At the present time, about 60 per cent of the land, approximately equivalent to the area of France, to which that measure applied had been demarcated. That land could no longer form the subject of any challenge. However, it should be remembered that the land demarcation process was an extremely costly task since it involved vast areas in very remote regions (which also partly explained the slow progress that was being made).

46. With regard to the integration of indigenous populations, he indicated that the aim of current legislation and government policy was to enable indigenous groups to determine their own future. Moreover, under the Constitution, those populations had a guaranteed right to preserve their language, their culture and their social system and those guarantees were applied in practice. Although some difficulties had been encountered, the authorities were endeavouring to ensure that there was no forced integration of indigenous populations, no displacement of those populations from one territory to another and no interference in their lifestyles.

47. In reply to a question concerning the manner in which Decree No. 1775 of 1996 had been adopted, he pointed out that the Ministry of Justice had taken into account the opinion of FUNAI, one of its subsidiary organs in which numerous representatives of the indigenous populations could be found.

48. With regard to the private security organizations, he said that the National Human Rights Programme made provision for measures to define the field of activity of those organizations more precisely and to subject them to stricter control by the authorities.

49. In reply to a question concerning the "death squads", he said that he had consulted his colleagues in the Ministry of Justice, who had informed him that there was no indication that the judicial authorities had been infiltrated by the death squads. On the other hand, some businessmen did indeed seem to have been involved with those groups and were therefore liable to prosecution.

50. With regard to the penitentiary system and, in particular, overcrowding in prisons, the competent authorities were currently studying a series of measures, many of which reflected the suggestions made by the members of the Committee. He added that alternative penalties were applied by magistrates in some cases. As for the question of detainees who remained in prison after serving out their sentences, the authorities were endeavouring to put an end to that situation and the computerization of the penitentiary system should help them to do so. In addition, 20,000 detainees would be benefiting from the amnesty or conditional release measures that the Government was preparing to announce.

51. With regard to the award of reparation to victims of human rights violations, specific legislation had been adopted concerning persons who had disappeared or died under the military regime. The purpose of those provisions was to provide a humanitarian solution to the problem and to offer reparation. Other victims of human rights violations could apply to the ordinary courts for reparation. That course of action had already proved successful in several cases.

52. On the subject of forced labour, he indicated that the mobile inspection system, although improved, was still suffering from inadequate material resources. At the present time, sanctions consisted primarily in fines and administrative measures without prejudice to any criminal proceedings that might be instituted. However, under the criminal legislation in force, some situations could not be dealt with in an appropriate manner. A bill of law had therefore been drawn up under which it would be possible to prosecute not only those who imposed forced labour but also those who used the services rendered in the course of such labour and who, in a sense, acted as "subcontractors".

53. In response to a question concerning disciplinary measures taken against members of the military police, he indicated that they were not confined to the dismissal of agents who had committed acts of aggression against detainees. Moreover, those measures were without prejudice to any criminal proceedings that might be instituted and such proceedings had actually been brought against most of the members of the military police who had committed offences.

54. In reply to a question concerning inquiries into allegations of torture and ill-treatment suffered by detainees, he said that the police

were responsible for conducting such inquiries. However, the authorities were aware of the need to devise an independent investigation system and were planning to establish a federal inquiry mechanism.

55. In reply to a question from Mrs. Evatt concerning follow-up of the Vienna Programme of Action, he said that the federal authorities were fully respecting their commitments and had in fact drawn inspiration from the measures adopted by Mrs. Evatt's country, Australia. The time-frame for the fulfilment of those commitments would comprise three phases spread over a total of about three years. Moreover, the Ministry of Justice was required to report to the President of the Republic every four months on the progress of the work in that field.

56. In reply to a question concerning the federal police unit which dealt with matters relating to human rights, he said that that unit's task was to protect witnesses of human rights violations as well as persons under threat, and also to monitor offences which, although falling within the jurisdiction of a State, nevertheless called for measures at the federal level when unreasonable procedural delays occurred in the State concerned. The Federal Government was using all the means at its disposal to ensure that inquiries were conducted in a diligent manner and that the safeguards for proceedings in due and proper form were respected. To that end, it was assisting the police forces of the States within the framework of a sort of parallel inquiry mechanism which verified the legality of the inquiries conducted by the police forces of the States.

57. With regard to the status of the Covenant in national legislation, he said that the rights recognized in the Covenant which were not embodied in the Constitution in a way supplemented the constitutional rights and were thereby protected. However, he was not in a position to give a precise definition of the status of the Covenant in Brazilian legislation.

58. With regard to the standards for the recruitment of members of the police and the training that they received in the field of human rights, the situation was improving and Amnesty International, in particular, had set up a training programme in cooperation with the federal police.

59. With regard to the independence of the judiciary, he said that Supreme Court judges were appointed by the President of the Republic subject to approval by the Senate. Once they had been appointed, they could not be removed from office and enjoyed immunity. On the question of the training and appointment of other magistrates and the guarantees concerning the independence of the judiciary, he indicated that he would subsequently be providing the Committee with information on that subject, possibly in writing, after consulting his colleagues who were more knowledgeable in that field.

60. Some members of the Committee had wondered whether the families of missing persons were satisfied with the reparation measures that had been adopted. He indicated that those families had been involved in the process that had led to the adoption of the relevant law. Hence, it could be assumed that they fully supported the solution proposed by the authorities.

61. With regard to the difficulty of access to the legal system by needy persons, the authorities were considering ways to improve the situation in that regard. On that question too, he would be providing the Committee with information at a later date.

62. Mr. BUERGENTHAL said he would also welcome further details, as part of the supplementary replies that would be provided by the Brazilian delegation, on the application of the international instruments to which Brazil was a party.

63. The CHAIRMAN invited the members of the Committee to continue their examination of the initial report of Brazil (CCPR/C/81/Add.6) at a subsequent meeting.

The meeting rose at 5.55 p.m.